

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

[1] H. THOMAS MORAN, II, AS RECEIVER )	
OF THE ASSETS OF EDWARD T. STEIN; )	
DISP, LLC; EDWARD T. STEIN )	
ASSOCIATES, LTD.; G&C PARTNERSHIP )	
JOINT VENTURE; GEMINI FUND I, L.P.; )	
PRIMA CAPITAL MANAGEMENT, LLC; )	
VIBRANT CAPITAL CORP.; and )	
VIBRANT CAPITAL FUNDING I LLC, )	
	<u>ANSWER</u>
Plaintiff, )	09-cv-7667-DLC
- against - )	
[1] MORTON GOLDFARB; [2] CHARLES )	
SAN FILLIPPO; [3] FRED KLEIN; )	
[4] MARIAN KLEIN; [5] PATRICK ROTH; )	
[6] GWENDOLIN, INC. F/K/A )	
CHANGEBRIDGE CORPORATION; )	
[7] VICTOR NELSON; [8] ROBERT )	
TUCCILLO; [9] SEYMORE "SY" )	
SCHNEIDER; [10] PETER VARIO; )	
[11] NEIL RICK; [12] JOHN LAVIANO; )	
[13] ROBERT HOLBERT; [14] JANET )	
MULHALL; [15] BARRY T. ZEMAN; )	
[16] ANGELA ZEMAN; [17] JOSHUA )	
ZEMAN; [18] JOEL MARKS; [19] RUTH )	
MARKS; [20] MARVEL IMPORT )	
INDUSTRIES, INC., RETIREMENT PLAN; )	
[21] JOSEPH BURKE, INDIVIDUALLY AND )	
AS THE EXECUTOR OF THE ESTATE OF )	
JOSEPH M. BURKE, SR.; [22] HARJINDER )	
S. SIDHU; [23] HOTEL DES PAYS; )	
[24] JULES SIEBURGH; [25] YOUNG BIN )	
CHOO; [26] CHOO REVOCABLE TRUST; )	
[27] CHANG WOON HUH CHOO; )	
[28] DOMINIC MARSICOVETERE; )	
[29] HAROLD STERNFELD; [30] STUART )	
NATTBOY; [31] GLORIA NATTBOY, AS )	
THE TRUSTEE OF THE NATTBOY )	
MARITAL TRUST; [32] MONA L. )	
SHAPIRO-ROGERS; [33] CHRIS LOVITO; )	
[24] RK HILLYER, LLC; )	

[35] ACCOMMODATIONS IN NEW YORK, )  
 INC.; [36] 18<sup>TH</sup> CORP/KAZUKO HILLYER; )  
 [37] RUTH MARKS FAMILY TRUST; )  
 [38] JOAN ELLEN STEIN; [39] PHILIP )  
 UCHITEL; [40] SUZANNE YOUNG, AS )  
 EXECUTOR OF THE STATE OF )  
 ANDREW J. YOUNG; [41] IRWIN COHEN; )  
 [42] VALLERIE HARRIS; [43] PHILIP )  
 HARRIS; [44] PHILIP EDWARDS; )  
 [45] ELLEN EDWARDS; [46] BRUCE )  
 ROSENZWEIG; [47] MICHAEL )  
 SANDLOFER; [48] CRIS READ A/K/A CRIS )  
 STERNFELD; [49] BROOKE SIEGEL; )  
 [50] IRENE BRANDES; [51] SCOTT )  
 EINIGER; [52] MICHAEL POMERANTZ; )  
 [53] ARLENE BERTINI; [54] MATTHEW )  
 CANNO TRUST; [55] PAULA JENNINGS; )  
 [56] KEITH COHEN; [57] PETER COSOLA; )  
 [58] FUNDSLOSO, INC.; [59] PETER )  
 COSOLA, INC.; [60] JODY FAITELSON; )  
 [61] STEPHEN KATZ; [62] GERDA MARX; )  
 [63] CRAIG ROSENBERG; [64] LAURA )  
 ROSENBERG; [65] CATHERINE BRIENZA; )  
 [66] PATRICIA SINISTORE; )  
 [67] DOMINICK VARIO; [68] DALE GLASS; )  
 [69] FELIX DIMARTINO; [70] JOANN )  
 DIMARTINO; [71] ROOFTOP, INC.; )  
 [72] MATHEW CANNO; [73] JANICE )  
 ABERT; [74] JANICE ABERT DEFINED )  
 BENEFIT PENSION PLAN; )  
 [75] WILLIAM AUCION; [76] EDWARD )  
 HAMILTON; [77] AXEL VENTURES )  
 DEFINED BENEFIT PENSION PLAN; )  
 [78] DAVID CRANDALL; [79] ALEXANDER )  
 JEONG; [80] LAUREN SEIGEL; )  
 [81] DOROTHY TALMADGE; [82] )  
 EMANUEL TRESS; [83] WILLIAM )  
 SINISTORE; [84] BOJACK )  
 CORPORATION; [85] PATRICIA )  
 ROMANO; AND )  
 [86] BARBARA K. WIENER, )  
 )  
 Defendants. )

Defendant, EMANUEL TRESS, by his attorneys, Jaspan Schlesinger LLP, for his answer to the Amended Complaint (the “Complaint”) alleges as follows:

1. Paragraph 1 of the Complaint alleges plaintiffs’ theory of the case for which no response is required. To the extent that a response is deemed necessary, it is denied.
2. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶2 and states to the extent the allegations therein set forth a conclusion of law a response is not required.
3. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶3 and states to the extent the allegations therein set forth a conclusion of law a response is not required.
4. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶4 and states to the extent the allegations therein set forth a conclusion of law a response is not required.
5. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶5 and states to the extent the allegations therein set forth a conclusion of law a response is not required.
6. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶6 and states to the extent the allegations therein set forth a conclusion of law a response is not required.
7. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶7.
8. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶8.

9. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶9 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

10. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶10 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

11. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶11 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

12. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶12.

13. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶13.

14. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶14.

15. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶15 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

16. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶16 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

17. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶17 and states to the extent the allegations therein set forth a

conclusion of law a response is not required.

18. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶18 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

19. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶19.

20. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶20 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

21. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶21.

22. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶22 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

23. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶23 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

24. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶24.

25. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶25 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

26. Denies knowledge or information sufficient to form a belief as to the truth of the

matters alleged in Complaint ¶26 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

27. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶27 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

28. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶28 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

29. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶29 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

30. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶30 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

31. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶31 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

32. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶32 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

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35. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶35 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

36. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶36.

37. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶37.

38. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶38.

39. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶39 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

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41. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶41 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

42. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶42 and states to the extent the allegations therein set forth a

conclusion of law a response is not required.

43. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶43.

44. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶44 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

45. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶45 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

46. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶46.

47. Denies the truth of the matters alleged in Complaint ¶47.

48. Denies the truth of the matters alleged in Complaint ¶48.

49. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶49.

50. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶50 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

51. Denies the truth of the matters alleged in Complaint ¶51.

52. Denies the truth of the matters alleged in Complaint ¶52.

53. Denies the truth of the matters alleged in Complaint ¶53.

54. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶54 and states to the extent the allegations therein set forth a

conclusion of law a response is not required.

55. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶55 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

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59. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶59 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

60. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶60 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

61. Denies knowledge or information sufficient to form a belief as to the truth of the matters alleged in Complaint ¶61 and states to the extent the allegations therein set forth a conclusion of law a response is not required.

62. Denies knowledge or information sufficient to form a belief as to the truth of the

matters alleged in Complaint ¶62.

**FIRST DEFENSE**

63. The Complaint fails to state a claim against which relief may be granted.

**SECOND DEFENSE**

64. Plaintiff's claim is barred by the applicable statute of limitations.

**THIRD DEFENSE**

65. Neither the Stein Entities, as defined in the Complaint, nor Gemini Fund I, L.P., were insolvent at the time of the transfer(s) to the Defendant.

**FOURTH DEFENSE**

66. Plaintiff's claims are barred in whole or in part because Plaintiff's injuries, if any, were caused in whole or in part by acts or omissions of others.

**FIFTH DEFENSE**

67. Plaintiff's claims are barred in whole or in part because Tress acted in good faith.

**SIXTH DEFENSE**

68. Plaintiff's claims are barred in while or in part because the alleged conduct of Tress was not a proximate cause of the loss or damage, if any, to Plaintiff.

**WHEREFORE**, defendant EMANUEL TRESS demands that the Amended Complaint be dismissed in against him in its' entirety, and that he be awarded the costs and disbursements of this action, including reasonable attorney's fees, together with such other and further relief as the Court deems just and proper.

**JURY DEMAND**

Defendant, EMANUEL TRESS, demands a jury trial with respect to all claims to which it is entitled.

Dated: Garden City, New York  
June 7, 2010

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